

**Testimony of
S. William Becker
Executive Director
of the
State and Territorial Air Pollution Program Administrators (STAPPA)
and the
Association of Local Air Pollution Control Officials (ALAPCO)
on
Gasoline: Supply, Price, and Specifications
before the
House Committee on Energy and Commerce
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Good morning, Mr. Chairman and members of the Committee. I am Bill Becker, Executive Director of STAPPA – the State and Territorial Air Pollution Program Administrators – and ALAPCO – the Association of Local Air Pollution Control Officials – the two national associations of clean air agencies in 54 states and territories and over 165 major metropolitan areas across the United States. The members of STAPPA and ALAPCO have primary responsibility under the Clean Air Act for implementing our nation's air pollution control laws and regulations and, even more importantly, for achieving and sustaining clean, healthful air throughout the country.

Our associations commend you for convening this hearing to explore fuel supply problems and escalating fuel prices. These are certainly very important and timely issues and we understand the desire of this Committee, and that of your colleagues, to take swift

action to address them. We are pleased to have this opportunity to provide our perspectives, particularly regarding state and local clean fuel programs, often referred to as “boutique fuels.” To be clear, a boutique fuel is one developed and included by a state or local area in an EPA-approved State Implementation Plan to reduce motor vehicle emissions and improve air quality. Authority for these programs is provided under Section 211(c)(4) of the Clean Air Act. According to EPA, areas in 12 states currently use a total of seven distinct types of boutique fuels.

We are especially concerned by assertions that there has been a “proliferation” of boutique fuel programs and that these programs are responsible for fuel price increases and could potentially compound fuel supply disruptions should they occur. Although we do not dispute the serious nature of today’s high fuel prices and potential supply disruptions, we believe boutique fuels have been wrongly targeted as the cause, and that further curtailment of state and local authorities to pursue such programs could unnecessarily jeopardize public health and clean air. Accordingly, we strongly urge that Congress not further limit the ability of states and localities to adopt boutique fuel programs.

It is important to consider this in the appropriate context. Perhaps the most complex air quality problem our nation faces is achievement and maintenance of the health-based National Ambient Air Quality Standards. Notwithstanding decades of diligent effort, at least 160 million Americans – more than half our population – still live in areas with unhealthful levels of 8-hour ozone, fine particulate matter or both.

The health and environmental impacts associated with elevated levels of ozone are serious, including aggravation of asthma and chronic lung disease, permanent lung damage, reduced lung function, irritation of the respiratory system and cardiovascular symptoms. Although even healthy individuals can be at risk from exposure to elevated levels of ozone, children, seniors and those with compromised respiratory systems are especially vulnerable.

Pollution from airborne particulate matter also plagues our nation. In fact, fine particles pose the greatest health risk of any air pollutant, resulting in thousands of premature deaths each year. These fine particles are also responsible for a variety of other adverse health impacts, including aggravation of existing respiratory and cardiovascular disease, damage to lung tissue, impaired breathing and respiratory symptoms, irregular heart beat, heart attacks and lung cancer.

There is widespread agreement that cleaner fuels have been, and will continue to be, critical to reducing air pollution and protecting public health. The U.S. Environmental Protection Agency (EPA) has stated, “Fuel controls can provide significant, cost effective emission reductions of VOCs and NO_x. Further, such fuel controls can often be implemented quickly and, once implemented, produce benefits immediately, typically reducing emissions from each vehicle in the fleet with no need for vehicle fleet turnover. This fleet-wide impact distinguishes fuels control from most other mobile source emission control options available to state and local areas.” In a June 2005 report, the Government Accountability Office reported that state boutique fuel programs have reduced smog-forming emissions by up to 25 percent over conventional gasoline.

The Clean Air Act gives primary authority for regulating the environmental impacts of fuels to EPA, preempting states and localities from controlling or prohibiting any characteristic component of a motor vehicle fuel or fuel additive. However, recognizing that there may be extenuating circumstances warranting a state or local fuel program, in Section 211(c)(4) of the Clean Air Act, Congress provides two specific exceptions to the otherwise general preemption – if the EPA Administrator finds that a special state or local fuel standard is necessary to attain the NAAQS because 1) no other measures exist to bring about timely attainment or 2) other measures exist, but are unreasonable or impracticable. It is important to note that in either case, EPA approval is required.

Also noteworthy is the fact that over the years states have availed themselves of these limited exceptions very judiciously to address specific local air quality problems, resulting in just seven distinct types of boutique fuels nationwide. States pursue boutique fuels for various reasons. For instance, some are not eligible to opt into the federal reformulated gasoline (RFG) program and, therefore, adopt a boutique fuel in order to obtain cleaner-than-conventional gasoline in a particular area. Others, who are eligible to voluntarily opt into federal RFG, have elected to pursue a low-volatility boutique fuel instead, as a less expensive alternative to RFG. It is especially significant that in a number of instances, a state or local area seeking to reduce smog-forming emissions pursued a boutique fuel over opting into the federal RFG program at the urging of the fuel suppliers. Although federal RFG would have reduced not only ozone precursors, but toxic air pollutants as well, fuel suppliers argued instead for a low-volatility boutique fuel

(i.e., one with a low Reid Vapor Pressure, or RVP) with more limited air quality benefits and a lower price tag. Thus, fuel suppliers were “willing partners” in advancing boutique fuel programs over the uniform federal RFG program.

According to EPA, “boutique fuels deliver substantial air quality and public health benefits at minimal costs – ranging from 0.3 to 3 cents per gallon.” When compared to today’s average national price for a typical gallon of regular gasoline – \$2.90 per gallon – boutique fuels cost literally a fraction of 1 percent of the cost of gasoline. So what does account for a typical gallon of gasoline? According to the U.S. Department of Energy’s (DOE’s) Energy Information Administration, over half (55 percent) is for domestic and foreign crude oil. About 22 percent is for refining (processing the crude to make gasoline, diesel fuel and other products for sale to refiners). Almost 20 percent goes for taxes or fees that are paid to the federal, state or local governments, while 4 percent is for distribution and marketing, including shipping by pipeline, storage at terminals and delivery by trucks to retail stations.

There is no question that gasoline prices are high and climbing. However, gas prices are escalating for reasons unrelated to clean air protections. Moreover, gas prices have increased at the same rate nationwide, not just in areas with cleaner fuel. In fact, even within the same neighborhood, the price of a gallon of gas can vary by an amount far greater than the cost attributed to a boutique fuel. For example, this week, for a gallon of regular gas, the price differential between two gas stations supplied by the same fuel company, located just blocks away from each other in Arlington, Virginia, was 20 cents.

To the extent there is concern over the potential for boutique fuels to exacerbate a future fuel supply disruption caused by a natural disaster or unexpected circumstance, such as a pipeline break or refinery shutdown, this concern should be allayed by EPA's statutory authority to grant waivers. Last summer, Congress added to this authority by including a provision in the Energy Policy Act of 2005 (EPAct) specifically authorizing the EPA Administrator to temporarily waive fuel requirements during supply emergencies. This authority was used almost immediately thereafter, following the devastation of Hurricanes Katrina and Rita.

Congress and the President have also taken other recent actions to further address any remaining concerns related to boutique fuels.

Congress included in EPAct a provision rescinding the RFG oxygenate requirement that various states had expressed interest in avoiding. Prior to EPAct, RFG was required to contain 2 percent oxygen by weight – a requirement that was often fulfilled by blending in the controversial fuel additive methyl tertiary butyl ether, or MTBE. The elimination of this requirement will likely obviate the need for states to develop special fuel blends to avoid MTBE.

Also included in EPAct is a provision restricting the number of boutique fuels to the total number of fuels approved by EPA as part of a State Implementation Plan as of September 1, 2004, thus eliminating the possibility of any future increase in fuel types.

EPAAct further calls upon EPA and DOE to undertake a study of the effects of state and local boutique fuels on air quality, the number of fuel blends, fuel availability, fuel fungibility and fuel costs. The results of this study are to be reported to Congress later this year, together with any recommended regulatory and legislative changes.

Some boutique fuel programs require a lower fuel sulfur content. However, recent implementation of EPA's landmark national low-sulfur gasoline regulation, as well as implementation by the agency later this year of national low-sulfur diesel fuel, should allow for local low-sulfur boutique fuel requirements to be phased out.

And, finally, just last week, the EPA Administrator launched a Presidential Task Force, comprised of the nation's Governors, to review boutique fuels across the country. EPA has established an ambitious schedule to provide the President with a final report within six to eight weeks.

As states and localities work toward achieving the goal of clean, healthful air nationwide, it is critical that they preserve key regulatory tools for consideration and possible implementation in the future. The ability to adopt a boutique fuel program as part of a comprehensive clean air plan is one such tool. There is no evidence that boutique fuels contribute to high gasoline prices and there are safeguards in place that allow EPA to respond swiftly and effectively should fuel supply disruption ever become an issue. In addition, several of the key reasons areas have pursued boutique fuels in the past have been otherwise addressed and, in no case can the number of types of boutique fuels expand. Add to this the fact that EPA has yet to report to Congress on the results of

its boutique fuels study under EPAct and, further, that the President has convened a special task force to study this issue and make recommendations. In light of all this, STAPPA and ALAPCO urge that Congress not further limit the ability of states and localities to adopt boutique fuel programs.

Thank you again, Mr. Chairman and members of the Committee. I appreciate this opportunity to present STAPPA and ALAPCO's views and would be pleased to answer your questions.